

REMARKS

Entry of the foregoing amendment and reconsideration of this application are requested. Claims 16 and 30 have been amended and claims 16-30 are now pending in the application.

The undersigned appreciates the courtesy extended by Examiner Melissa Ryckman in a telephone interview on February 26, 2008. In that interview, proposed amendments in claims 16 and 30 previously faxed to the Examiner were discussed. The Examiner agreed that the proposed amendments overcome the rejections in the outstanding final Office Action, but stated that further searching would be required before a Notice of Allowance could be considered. The Examiner recommended the possibility of filing a Request for Continued Examination, and such paper accompanies this Amendment.

In the final Office Action of October 30, 2007, claims 16-20, 22-24 and 28-30 were rejected under 35 U.S.C. §102(b) as being anticipated by Schatz et al (US Patent No. 6,027,509). Claims 16 and 21 were rejected under 35 U.S.C. §102(e) as being anticipated by Schatz (US Patent No. 5,868,753). Claim 25 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Schatz '753 in view of Bosley, Jr. (US Patent No. 4,930,496).

Independent claims 16 and 30 have now been amended to recite, inter alia, a device for retrieval of a foreign body from the vessel of a patient including balloon support means fixed to and extending from said central shaft None of the cited references show or suggest the overall structure and function now set forth in amended claims 16 and 30 and claims dependent therefrom.

In particular, none of the cited references show a retrieval device wherein a balloon support means is fixed to and extends from a central shaft having an axial channel for receiving a guidewire therein. Nor do any of the references disclose or teach that a balloon means on the balloon support means fixed to the central shaft is subsequently inflated to bear against a foreign body or stent in the vessel and hold it against the central shaft, such that the combined foreign body or stent and the device can be withdrawn from the vessel.

The feature of Schatz '509, which the Examiner equates with the central shaft of the present invention as defined in claim 16, is stated as being either the feature labeled 110 or the feature labeled 22 in the drawings of Schatz '509. However, on careful reading of Schatz '509, it is apparent that the "central shaft 110" is not a feature of the stent retrieval devices of the Schatz '509 invention, but rather is the central shaft of the balloon catheter from which an undeployed stent is to be retrieved. As such, the balloon support means of Schatz '509 is not fixed to this central shaft, as required by claim 16 of the present application.

Moreover, claim 16 states that in use, the balloon means is inflated to bear against the foreign body and hold it against the central shaft, such that the combined foreign body and device can be withdrawn from the vessel. In the case of Schatz '509, this clearly cannot apply. The central shaft 110 does not form part of the stent retrieval device of Schatz '509. Therefore, if the balloon means of Schatz '509 were inflated to hold the stent against the central shaft 110, it would be impossible to withdraw the stent retrieval device together with the stent from the vessel, without also removing the balloon catheter and the angioplasty guidewire. This is because the stent retrieval device itself would otherwise be required to be drawn along the stationary central shaft 100 against which the stent is compressed. Removal of the balloon catheter and the guidewire would mean that the surgical procedure was terminated, and a separate procedure would be required to relocate the stent in its correct position. By contrast, the stent removal device of the present invention can be picked up "off the shelf" as required during a procedure and utilized in combination with balloon catheters and other devices, including that described in Schatz '509.

Once the stent has been successfully retrieved, the combined stent and device can be removed, leaving the balloon catheter or other device in place, along with the guide wire so that the surgical procedure can continue. It is this point in particular which makes the present invention particularly attractive to medical practitioners -- and therein resides its inventiveness.

If one takes the Examiner's alternative position, that the central shaft in Schatz '509 is the feature labeled 22, then again this fails to meet the requirements of claim 16. Although the balloon means (46) of Schatz '509 is fixed to this central shaft 22, the shaft 22 does not continue to extend through the center of the balloon support means (46). Consequently, the balloon means are not arranged to expand inwardly towards said central shaft upon inflation, as required by claim 16. Moreover, it is not possible for the balloon means to bear against the foreign body and hold it against the central shaft, as required by the claim.

The Examiner has cited a further US Patent No. 5,868,753, also in the name of Richard A. Schatz under §102(e) against claims 16 and 21. The Examiner has interpreted the feature labeled 36 in Schatz '753 as being equivalent to the "central shaft" in claim 16 of the present application. However, on careful reading of Schatz '753, it is apparent that the feature labeled 36 is again part of the balloon catheter from which the undeployed stent is to be recovered, and consequently that this "central shaft 36" is not an element of the stent retrieval catheter of the Schatz '753 invention. As such, it is clear that the balloon support means of Schatz '753 is not fixed to this central shaft, and that the balloon means are not arranged to expand inwardly towards said central shaft upon inflation. Moreover, the foreign body to be retrieved cannot be held against the central shaft when the device is in use. Were this the case, then the stent would again be compressed against the balloon catheter, and so it would not be possible for the stent retrieval catheter and stent to be withdrawn, without also removing the balloon catheter and guidewire.

Similar arguments to those above apply to amended claim 30.

Neither Bosley nor Tsugita rectify the deficiencies of the Schatz '509 and '753 patents.

Summary

The novelty and inventiveness of the present invention resides in its ability to be utilized as and when required during a surgical procedure, and to be introduced and removed from the vessel as required, without requiring other surgical devices to be

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removed, which would necessitate termination of the procedure. Support for this is to be found in the passage at page 6, lines 15-18 of the international application as published. By contrast, the devices of Schatz would be required to be in place in preparation for the eventuality of a stent becoming misplaced, and would then necessitate the removal of all other surgical devices from the vessel upon recovery of the stent, thus terminating the procedure.

Applicant thus respectfully requests withdrawal of the 35 U.S.C. § 102 and 35 U.S.C. § 103 rejections of the claims.

The Examiner is requested to pass this application to issuance with claims 16-30 being deemed allowable.

An effort has been made to place this application into condition for allowance and such action has been earnestly requested.

Respectfully submitted,

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